IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH.

Case No. : C.W.P.No.7485 of 2007
Date of Decision : May 17, 2007

Baldev Singh .... Petitioner

Vs.

Punjab and Sind Bank and others .... Respondents

CORAM : HON'BLE MR.JUSTICE J.S.KHEHAR.
HON'BLE MR.JUSTICE L.N.MITTAL.

* * *

Present : Mr.Baldev Singh, petitioner in person.

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L.N.MITTAL, J. :

The petitioner was in the service of Punjab and Sind Bank, respondent no.1. He sought and was granted voluntary retirement with effect from 29.01.2001 under Voluntary Retirement Scheme of 2000.

The petitioner has raised various claims in the instant writ petition with respect to his retiral benefits. However, the writ petition is liable to dismissal because the petitioner had earlier filed a civil suit claiming the same benefits. The said suit was, however, dismissed as withdrawn vide order dated 19.02.2007 of learned Civil Judge (Junior Division), Amritsar (Annexure P-16). In view of the dismissal of the said suit, instant writ petition, for the same relief, is barred. It is, however, vehement contention of the petitioner that he withdrew the suit with liberty to file fresh case. A perusal of the order dated 19.02.2007 of the Civil Court, however, does not support this contention of the petitioner. As per the said order, the suit was simply dismissed as withdrawn, without granting

any liberty to the petitioner to file a fresh case, on the same cause of action. The petitioner insisted that he made request for withdrawing the suit with liberty to file fresh suit on the same cause of action. This submission of the petitioner is not acceptable for two reasons. Firstly, no such liberty was granted by the learned Civil Court. Secondly, even the petitioner had not sought any such liberty while withdrawing the said suit. Copy of the statement dated 19.02.2007, made by the petitioner (Annexure P-15) reveals that the petitioner withdrew the civil suit stating that he will file a fresh suit by producing original postal receipts and other original documents. Thus, he made statement that he would file fresh suit, but he did not seek liberty from the Court to file fresh suit on the same cause of action. It thus emerges that since the suit filed by the petitioner, claiming the same relief, stands dismissed as withdrawn, without any liberty to file a fresh case, on the same cause of action, the instant writ petition cannot be entertained.

In addition to what has been noticed herein above, the claim of the petitioner is not sustainable even on merits. The petitioner claims benefit of additional qualifying service under Regulation 26(b) of the Punjab and Sind Bank (Employees) Pension Regulations, 1995, extracted at page 2 of the writ petition and reproduced here under :-

> ***"26.*** *Addition to qualifying service in special circumstances :-*
>
> *An employee shall be eligible to add to his service qualifying for superannuation pension (but not for any other class of pension) the actual period not exceeding one fourth of the length of his service of his service of actual period by which his age at the time of recruitment exceeded the upper age limit specified in the Bank for direct recruitment or a period of five years, whichever is less , if the service or post to which the employee*

is appointed is one -

(b) *to which candidates of age exceeding the upper age limit specified for direct recruitment are normally recruited."*

A perusal of the aforesaid regulation reveals that the benefit of additional qualifying service is available for superannuation pension only and not for any other class of pension. It is not a matter of dispute that the petitioner sought voluntary retirement and he did not retire on attaining the age of superannuation. Consequently, he is not entitled to the benefit of additional qualifying service under the aforesaid regulation as the said benefit is available for superannuation pension only and not for any other class of pension.

The petitioner has also claimed charges of four months leased accommodation till 13.05.2001 and House Rent Allowance @ 10.5% for the period of 240 days of leave encashment. However, no foundation for the said claim has been laid in the instant writ petition except making vague and general allegations that similar relief has been given to several other employees, situated similarly as the petitioner. Not even a single employee has been named in the writ petition who might have been granted similar benefits. No rule or regulation has either been cited in support of the petitioner's claim in this regard.

For the reasons recorded herein above, we find no merit in this writ petition and the same is accordingly dismissed.

(L.N.MITTAL)
JUDGE

May 17, 2007
monika

(J.S.KHEHAR)
JUDGE